

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ALLISON-SMITH COMPANY, LLC)
Plaintiff,) Civil Action No. _____
v.)
MARTIN TECHNICAL, INC.)
Defendant.)

DEFENDANT MARTIN TECHNICAL, INC.'S NOTICE OF REMOVAL

Defendant Martin Technical, Inc. (“Martin Technical”) removes the action in the Superior Court of Cobb County, Georgia styled *Allison-Smith Company, LLC v. Martin Technical, Inc.*, Case No. 23100485 (the “Superior Court Action”) pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, Martin Technical further states:

Background

1. On January 18th, 2023, Plaintiff Allison-Smith Company, LLC (“Allison Smith”) filed the Superior Court Action.
2. Martin Technical received a copy of (1) the complaint, (2) interrogatories, (3) requests for production of documents, and (4) a summons from Plaintiff’s counsel on February 13th, 2023, via e-mail. Along with that

documentation, Allison Smith sent a request that the undersigned acknowledge and waive service of process, effective February 13, 2023. A copy of this documentation along with the transmittal e-mail from Allison Smith is attached as Exhibit A.

3. The next day, February 14, 2023, Martin Technical acknowledged and waived service of process, effective as of February 13, 2023.

4. The Complaint purports to assert three causes of action against Martin Technical: (1) breach of contract/statement on account; (2) equitable accounting of trust funds and breach of trust; and (3) attorney's fees and costs.

5. Based on these causes of action, Allison Smith seeks \$1,165,239.50 from Martin Technical. (Ex. A, Compl. ¶¶ 11, 13-14, 19).

6. The Complaint alleges that "Allison-Smith is a foreign limited liability company authorized to conduct business in Georgia. Its principal Georgia office is located at 1869 South Cobb Industrial Blvd, Smyrna, GA 30082. (*Id.* ¶ 1).

7. The Complaint further alleges that "Martin Technical is a foreign corporation with its principal office located at 8687 W 108th Ave, Westminster, CO, 80021. Martin Technical may be served with process through its registered agent, Michael Kessock, at 3745 Cherokee Street, #303, Kennesaw, GA 30144." (*Id.* ¶ 2).

Diversity Jurisdiction under 28 U.S.C. § 1332(a)

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists between the parties and because the amount in controversy exceeds \$75,000, exclusive of interest and costs.

9. Plaintiff Allison-Smith Company, LLC (“Allison Smith”) is a foreign limited liability company organized under the laws of the State of Delaware.

10. Allison Smith’s members and their states of residency are as follows:

- a. Melvin Bert Kinard (Georgia)
- b. Brian Russ (Georgia)
- c. Chris Reichart (Georgia)
- d. Steve Craig Vandiver (Georgia)
- e. James Barger (Georgia)
- f. Jason Smith (Georgia)
- g. Kelley McDaniel (Georgia)
- h. Mark Gallacher (Georgia)
- i. Matt Moore (Georgia)
- j. Mike Mikko (Georgia)
- k. Ray Kennedy (Georgia)
- l. Stephen Scott Smith (Georgia)

m. Todd Grossweiler (Georgia)

n. Todd Schirner (Georgia)

o. Todd Smith (Georgia)

p. Blake Harrelson (South Carolina)

11. Because Allison Smith's members are residents of Georgia and South Carolina, Allison Smith is a citizen of Georgia and South Carolina for purposes of diversity jurisdiction.

12. Defendant Martin Technical is a foreign profit corporation organized under the laws of the State of Colorado, with its principal address located at 1157 W. Century Dr. #100, Louisville, CO 80027. Martin Technical is therefore a citizen of Colorado for purposes of diversity jurisdiction.

13. The amount in controversy exceeds \$75,000 because Allison Smith seeks \$1,165,239.50 in damages.

All Procedural Requirements Are Satisfied

14. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all of the process, pleadings, orders, and documents from the Superior Court Action which have been served on Martin Technical are being filed with this Notice of Removal as Exhibit A.

15. A copy of this Notice of Removal will be served upon the Plaintiff and filed with the Clerk of the Superior Court of Cobb County as required by 28 U.S.C. § 1446(d).

16. The Superior Court Action is removable to this Court under 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Northern District of Georgia is the federal judicial district embracing the Superior Court of Cobb County.

17. This Notice of Removal is filed within thirty days of service of the complaint on Martin Technical and its receipt of the same. Removal is thus timely under 28 U.S.C. § 1446(b).

WHEREFORE, Defendant Martin Technical, Inc. respectfully requests that this action proceed in this Court as an action properly removed to it.

Respectfully submitted this 15th day of March, 2023.

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Certificate of Service

I certify that I have served the foregoing to the following counsel of record for the Plaintiff via e-mail.

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I further certify that I have served a copy the same upon the Cobb County Superior Court clerk by electronic filing with that Court.

Respectfully submitted, this 15th day of March, 2023.

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